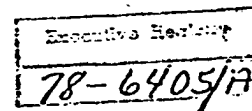




Washington, D.C. 20505



27 OCT 1978

The Honorable Lester A. Fettig
Administrator for Federal Procurement Policy
Office of Management and Budget
Washington, D.C. 20503

Dear Mr. Fettig:

The Central Intelligence Agency (CIA) has reviewed the proposed OMB Circular A-76, "Policies for Acquiring Commercial or Industrial Products and Services for Government Use," as transmitted by the Administrator, Office of Federal Procurement Policy, on 17 August 1978.

Largely because of the Director of Central Intelligence's (DCI's) statutory responsibility to protect against the disclosure of intelligence sources and intelligence methods—50 U.S.C.A. 403(d)(3) (SI02 of the National Security Act of 1947), the CIA has historically drawn careful distinctions between those activities which could be performed by private commercial sources and those which must be performed in-house—Governmental functions in A-76 lexicon. For example, the activities associated with the collection of human source intelligence are performed in-house by CIA employees. Such activities are and will continue to be Governmental functions because of the need to protect intelligence sources and methods. In addition, the activities that support CIA human source collection are also, by their very nature, Governmental functions.

The CIA's National Foreign Assessment Center (NFAC) is charged with the mission of analyzing, producing, and coordinating finished national foreign intelligence for Executive and Legislative Branch policymakers. NFAC spends significant resources each year with private commercial sources for what we call external analysis—that is, contracting with private commercial sources. These endeavors complement in-house analysis of foreign intelligence information and are entered into for one of three reasons:

- a. To acquire unique expertise — there are numerous cases in which only a handful of individuals or private commercial sources are capable of analyzing intelligence information or data collected. These cases usually require expertise resident only in an advanced, state-of-the-art commercial research and development environment.

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b. To perform basic research on new or short-term topics — in many of the fast-changing areas of weapon and missile technology, for example, it would be wasteful and inefficient for the CIA to duplicate the cadre of specialists and inventory of state-of-the-art electronic equipment resident in the private sector.

c. To obtain a detached view — it is frequently useful for CIA analysts and managers to obtain the views of experts resident outside of the Federal Government policymaking framework.

Notwithstanding assistance provided by private commercial sources, CIA employees are ultimately responsible for producing finished national intelligence estimates which clearly represent the discretionary application of Government authorities.

CIA's research, development, and engineering (RD&E) activities associated with technical collection and related intelligence activities also rely very heavily on private commercial sources. A great deal of this activity involves industrial security clearances through the TOP SECRET level and includes Sensitive Compartmented Information. Reliance on private commercial sources is necessary because of extremely complex and sophisticated engineering tasks and the testing and manufacturing facilities required to successfully perform these endeavors. In the case of CIA RD&E, we essentially maintain an in-house core capability to conduct liaison with intelligence collection requirement activities, to conceive and analyze technical collection strategies and methodologies, and to monitor the activities of private commercial sources performing under RD&E contracts.

The CIA's Administration Directorate (DDA) is charged with providing support to the Agency's intelligence collection, analysis and production, and RD&E activities. Included in these support activities are worldwide communications, data processing, security, logistics, finance, personnel, training, and medical services. Within each of these support activities, careful decisions have been made with respect to the degree of reliance that can be placed on private commercial sources. Because of very stringent sources and methods requirements, the DDA is precluded from identifying entire activities for competitive award to private commercial sources. Rather, it relies as much as possible on the private sector while maintaining a clear and well-defined separation between private commercial sources and operational activities and details. In the area of providing secure worldwide communications, for example, in-house activities consist of liaison with operational activities, both within CIA and within other Federal agencies, the analysis of and planning for communications requirements, and the day-to-day operation of this worldwide activity. Private commercial sources are indispensable to this support. We rely on them for almost all of the equipment required—in nearly all cases except

cryptologic equipment, it is commercially available off-the-shelf. We also rely very heavily on them for the state-side maintenance of these systems and equipment. We cannot rely on private commercial sources, however, for any aspect of either the ownership or operation of the worldwide network because of the aforementioned statutory and executive sanctions. All other support activities have also been—historically—carefully evaluated to determine the maximum proper role that private commercial sources can play in assisting the CIA to satisfy its responsibilities. In each case the factor limiting greater participation of private commercial sources is and will continue to be the protection of intelligence sources and methods.

We are firmly committed to the philosophy of reliance on the private sector for the cost-effective provision of goods and services in satisfaction of CIA needs. To illustrate this point, approximately 50 percent of our Fiscal Year 1978 appropriation allocated to non-personal services—that is for other than salaries, benefits, and allowances for CIA employees—has been expended with private commercial sources. We have had and will continue to have very productive contractual relationships with private commercial services, albeit to a large degree on a classified basis resulting from the previously cited statutory and executive sanctions.

In the case of the CIA, Governmental functions are in largest part defined by statutory and executive requirements for the protection of intelligence sources and methods. To the extent that certain of the Agency's activities which would be characterized as commercial and industrial under the provisions of proposed Circular A-76 can be contracted to private commercial sources, such has been accomplished. Further, the Agency will continue this practice. I have in effect determined that other commercial and industrial activities that are performed in-house in the CIA are Governmental functions within the meaning of paragraphs 4f(1) and 4f(3) of the proposed Circular A-76. While I believe this Agency is in compliance with the intent of proposed Circular A-76, the inconsistency between reporting and publication requirements and the DCI's statutory responsibility to protect intelligence sources and methods precludes full CIA implementation of the Circular.

In sum, while this Agency endorses fully the objectives of Circular A-76 and will be guided by the spirit of its provisions, we will be unable to comply with the letter of its requirements and at the same time meet the DCI's statutory responsibilities cited above.

Sincerely,

/s/John F. Blake

John F. Blake
Acting Deputy Director